IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION LODG.NO.1393 OF 2006

Vithal Ramesh Patil ..Petitioner

Vs.

The State of Mah.& Ors. ..Respondents

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Mr.V.V.Pai Adv. for Petitioner
Mr.P.M.Mokashi AGP for Respondents

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CORAM: F.I.REBELLO AND
SMT.V.K.TAHILRAMANI,JJ.
DATE : JULY 24,2006

P.C.(PER SMT.V.K.TAHILRAMANI,J.):

1. Heard the learned counsel for the respective parties. In response to the advertisement published in the local newspaper for recruitment of 115 posts of police constables under the Respondent No.3, the petitioner had applied for the same against open category post. He underwent selection process but he was not successful in the final selection. He is therefore, seeking writ of mandamus, order or direction in the nature of mandamus to set aside the selection made and to select him for the said post.

2. The Petitioner claims that he was successful in all tests viz. the physical ability test, written test as well as the oral interview. His signature was obtained on all the result-sheets. However, the petitioner alleges that on the result sheet of the oral interview, his signature was not obtained but he was orally informed about the marks. The Petitioner specifically alleges that his result in the oral interview was manipulated to show favour to some other candidates. The Petitioner also claims that he had otherwise secured the minimum qualifying marks fixed at 140 out of 200 marks for the open category candidates and inspite of that his name did not appear in the final select-list.

3. Affidavit in reply has been filed on behalf of the Respondent No.3. As per the advertisement published in the newspaper, it is clear that out of the total 115 posts, 45 posts were for reserved category whereas, 70 posts were for the open category. The initial selection process consisted of educational qualification and physical ability and if these two requirements are satisfied the candidates were required to go through the further

selection process consisting of (1) ground test, (2) written test and (3) oral test.

4. It has been pointed out in affidavit in reply that in response to the advertisement, total 932 applications were received by Respondent No.3. Out of these 932 applications, on 30.5.2006 only 671 candidates reported at Goregaon parade ground. Out of 671 candidates, 200 candidates were found ineligible in terms of educational and physical qualification. For the remaining 471 candidates, remaining tests of selection process were conducted. In the ground test, the petitioner secured 66 out of 100 marks. In the written test, the petitioner secured 56 out of 75 marks. The petitioner was therefore, called for oral interview on 2.6.2006. The oral interviews were conducted by Committee of five members viz:- (1) Mr.S.G.Zarekar, Commandant, (2) Mr.Madhukar Talpade, Additional Superintendent of Police, District Raigad, (3) Shri.A.J.Bhingardive, Project Officer, I.C.D.S. Goregaon, (4) Shri.P.D. Nikumbha, Deputy Collector, Special Land Acquisition Officer, Surya Prakalpa, Dahanu, Dist. Thane and (5) Mr.S.G.Shaikh, Police Inspector, Manpada Police

Station. The Commandant was the Chairman of the Committee whereas, Additional Superintendent of Police District Raigad, was the Vice Chairman of the Committee. In the oral interview, the petitioner secured 12 out of 25 marks as has been stated in the affidavit in reply. We were shown the record and from the same, it is clear that the marks secured by the petitioner as mentioned in the affidavit do confirm with the record. Thus, the petitioner secured 134 out of 200 marks in all the three tests for selection.

5. The minimum cut off marks required for the open category candidate were 140 out of 200 marks. The petitioner secured only 134 out of 200 marks. It has been pointed out in the affidavit in reply that 70 candidates selected as per the list had secured the minimum number of 140 out of 200 marks whereas the remaining 10 wait-listed candidates had secured not less than 139 marks out of 200 marks.

6. In the affidavit in reply filed by Respondent No.3 a preliminary objection has been raised contending that the petitioner has an alternate remedy to approach the Maharashtra Administrative

Tribunal (MAT). However, as the original record was produced before us and affidavit in reply was also filed, we have examined the petitioner's case on merits rather than relegating him to alternate remedy. On going through the record and affidavit in reply, we are thus satisfied that even in the wait-list candidates, there is no candidate who has secured less than 139 out of 200 marks whereas the petitioner has secured 134 out of 200 marks. In addition, there is no ground made out to hold that selection process was vitiated. The petitioner's allegation of favouritism to any other candidate does not find support and the record also does not show that there was any manipulation in the marks secured by the petitioner.

7. In the result, the petition is summarily rejected.

[F.I.REBELLO, J.]

[V.K.TAHILRAMANI,J.]